

REMARKS/ARGUMENTS

Claims 7-21 are pending. Independent Claim 7 tracks and finds support in original Claim 1. Claims 8-10 and 21 track and find support in original Claims 2, 3, 4 and 6. New Claims 11-20, which describe various types of basic compound (e), find support in the specification starting on the fifth line from the bottom of page 16 and continuing through page 18. Accordingly, the Applicants do not believe that any new matter has been added. Favorable consideration is respectfully requested.

Priority

The Applicants thank Examiner Di Nola-Baron for acknowledging their claim for foreign priority. This application is a national-stage filing under 35 U.S.C. §371 and claims priority to Japan 2000-149913. The Applicants respectfully request that the Examiner confirm receipt from the International Bureau of a photocopy of the certified copy of this document, see MPEP 1893.03(c) "The Certified Copy". Should such a certified copy not be available, the Examiner is requested to contact the undersigned so that this matter may be timely resolved.

Rejection—35 U.S.C. §102

Claims 1-6 were rejected under 35 U.S.C. 102(b) as being anticipated by Imazato et al., U.S. Patent No. 5,733,949. The Applicants submit that the cited prior art would not allow one to immediately envisage the present invention for anticipation purposes, nor does it suggest the present invention as would be required to render it obvious.

The present invention is directed to an antibacterial composition comprising elements (a), (b), (c), (d) and (e). An important aspect of the present invention is to add a specific basic compound (e) to an antibacterial composition comprising (a), (b), (c) and (d) for the purpose of improving the antibacterial property and the storage stability of the antibacterial

composition. See “BACKGROUND ART” and the Examples in the present specification.

JP-A 157318/1996 described in “BACKGROUND ART” is a corresponding Japanese patent application of U.S. Patent No. 5,733,949 (Imazato et al.) which was cited by the Examiner.

Assuming *arguendo*, that Imazato anticipates elements (a)-(d), independent Claim 7, which tracks prior Claim 1, requires “(e) at least one basic compound selected from the group consisting of an alkali metal hydroxide, a strong basic acid salt not having an aromatic group, and an aliphatic amine”.

The Applicants submit that in order to anticipate the claimed compositions, that the prior art must disclose an antibacterial composition comprising ingredients (a)-(d) as well as ingredient (e) with sufficient specificity or allow one to immediately envisage such an antibacterial composition, see MPEP 2131.02. Imazato does not do this, because ingredient (e) is not disclosed with sufficient specificity and Imazato would not allow one to immediately envisage an antibacterial composition comprising ingredients (a)-(d) and (e).

While Imazato et al. disclose that the antibacterial composition may, if desired, contain additional polymerizable monomers, col. 6, lines 44-60, discloses many such polymerizable monomers, including methy(meth)acrylate, butyl(meth)acrylate, γ -methacryloyloxypropyltrimethoxysilane, triethyleneglycoldi(meth)acrylate, neopenthyglycol-di(meth)acrylate, 1,6-hexanediol-di (meth)acrylate, 1,10-decandioldi(meth)acrylate, 2,2’bis[(((meth)acryloyloxypropoxy) phenyl]propane, 2,2’-bis[4-(3-(meth)acryloyloxy-2-hydroxypropoxy)phenyl]propane and trimethylolpropane-tri(meth)acrylate. 2-(dimethylamino)ethyl(meth)acrylate (DMAEMA) is only one of the listed monomers. Moreover, these polymerizable monomers, except DMAEMA, are not basic compounds and are not useful for improving the antibacterial property and the storage stability of the antibacterial composition.

To make this point clear the Applicants provide the attached Declaration. This Declaration shows that antibacterial compositions containing polymerizable monomers, other than DMAEMA, have poor antibacterial properties and poor storage stabilities as compared to the present invention. Compare Example 1 in the present specification with Comparative Examples 1 to 17 in the Declaration. Moreover, DMAEMA is not used in the examples in Imazato et al.

As described above, Imazato et al. does not disclose that a specific basic compound (e), such as DMAEMA, is useful for improving the antibacterial property and the storage stability of the antibacterial composition.

Imazato does not exemplify the claimed compositions and one would not immediately envisage the claimed antibacterial compositions containing basic ingredient (e) due to the long list of other non-basic polymers that do not have antibacterial activity described by Imazato. Accordingly, the Applicants respectfully submit that Imazato cannot anticipate the present invention. Moreover, Claims 11-20 are now directed to specific types of basic compounds for element (e), e.g., Claim 20 specifically excludes the (2-dimethylamino)ethyl methacrylate (DMAEMA) of Imazato. Accordingly, the Applicants respectfully request that this rejection now be withdrawn.

CONCLUSION

In view of the above amendments and remarks, the Applicants respectfully submit that this application is now in condition for allowance. Early notification to that effect is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Norman F. Oblon
Attorney of Record
Registration No. 24,618

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/03)
NFO/TMC:asa

Thomas M. Cunningham
Registration No. 45,394